IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Bail Appl..No. 6016 of 2007()

[ST.NO.4831/06 OF Judicial First Class Magistrate Court-III, PALAKKAD]

: PETITIONER/ACCUSED

NOUSAHD S/O.SULTHAN,AGED 32 YEARS,
MANKAVKALAM,THASRAK,KINASSERRY P.O.,PALAKKAD.

BY ADV. SRI.RAJESH SIVARAMANKUTTY

RESPONDENTS: COMPLAINAT

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGHC COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6016 of 2007

Dated this the 3rd day of October 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. He had received notice. He did not appear before the learned Magistrate. His absence was condoned on the first day. But on the second time when the application for condonation was made, the same was rejected by the learned Magistrate. Warrant of arrest was issued by the learned Magistrate against the petitioner. The petitioner finds the warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007